

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3460 of 1997

to

FIRST APPEALNo 3479 of 1997

Hon'ble MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SPL.LAQ OFFICER

Versus

VALI ABHRAM BAPU

Appearance:

MR PG DESAI, GP for appellants

MR YN RAVANI for Respondent

CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 18/04/98

COMMON ORAL JUDGEMENT (Per Y.B. Bhatt)

1. Heard the learned counsel for the respective parties. Appeals admitted. Mr. Y.N. Ravani waives service on behalf of the opponents-land holders.

2. On the joint request of learned counsel for the respective parties, these appeals are taken up for final hearing today.

3. These First Appeals have been filed on behalf of the State under section 54 of the Land Acquisition Act read with section 96, CPC, challenging the common judgement and awards passed by the Reference Court under section 18 of the said Act.

4, We have heard the learned counsel for the respective parties and have perused the impugned judgement with the assistance of the learned counsel for the respective parties. We have also referred to such evidence which has been referred to by the learned counsel.

5. As a result of the hearing and discussion, we find that the Reference Court has relied mainly upon Exh.13, which is the certified copy of the judgement of the Reference Court in Land Reference Case No.506/87, dealing with the acquisition of lands in the village Chavaj wherein the date of section 4 notification was 25th April 1985. In the instant case the relevant date of notification is 24th September 1985. Thus, the difference between the two dates is only about five months. Under Exh.13 the Reference Court had valued the lands of village Chavaj at Rs.760/- per are. It also appears that the said award under section 18 has not been challenged by the State and has thus become final. Obviously, therefore, this would form a reliable basis for comparison and determination of the market value of the acquired lands, particularly since the village Chavaj and the instant village Kasad are hardly one to one and half kilometers away from each other, and also because the purpose of acquisition was the same in both the cases. Inspite of this, the Reference Court has, on the basis of the overall development of the area and the region, arrived at a conclusion and a finding of fact that the lands of village Chavaj are slightly superior and/or that the lands of the instant village are slightly inferior, looking to the fact that the industrial development around the village Chavaj is greater and that the village Chavaj is touching the main highway. On the basis of this finding the Reference Court has, while following the basic determination of the valuation under Exh.13, deducted a sum of Rs.100/- per are from the

valuation of lands situated in village Chavaj. Thus, the lands of the instant village Kasad have been valued at Rs.660/- per are.

6. Thus, we are satisfied that the impugned judgement and awards do not merit any interference in these appeals. The impugned judgement, taken in its overall perspective, is, in our opinion, not assailable. We agree with the assessment of the evidence on the part of the Reference Court, the conclusions drawn therefrom and the findings of fact recorded.

7. No other contentions are raised.

8. In the premises aforesaid, we are satisfied that the determination of the market value by the Reference Court under the impugned judgement is fair and reasonable and in any case the same cannot be said to be excessive in any manner. These appeals are, therefore, dismissed with no order as to costs.

9. The appellant-State is directed to deposit with the Reference Court the amount of the award together with costs and interest separately in each reference, within a period of three months from today. Direct service is permitted.
